

REMARKS/ARGUMENTS

I. Information Disclosure Statement

In the Office action, the Examiner points out that copies of documents cited and marked with an asterisk cited on form PTO-1449 included with the Information Disclosure Statement filed on November 26, 2001 were not received. In addition, the Examiner said that he did not initial some documents cited on the same form PTO-1449 as they were not previously furnished or cited.

Three references cited on form PTO-1449 submitted on November 26, 2001 not initialed by the Examiner, specifically referred to as U.S. Pat. Nos. 3,891,979, 5,699,056, and 5,774,070 were mistakenly marked on the form PTO-1449 as having been previously cited. Copies of these patents are included with a new Information Disclosure Statement submitted herewith.

Two references cited on form PTO-1449 submitted on November 26, 2001 not initialed by the Examiner, specifically referred to as "Advertisement, VIBRO-METER SA, Fribourg, Switzerland" and "SCAN FP 2000 Sensor Advertisement, Surface Systems, Inc.," were both cited in an Information Disclosure Statement submitted on July 9, 1996 in related U.S. Pat. App. Ser. No. 08/660,232, now U.S. Pat. No. 5,619,193. Copies of these two documents are submitted herewith for the Examiner's convenience. Note that the Examiner of the '193 patent did not initial these two documents during prosecution of the '193 patent, because they are not dated.

One reference cited on form PTO-1449 submitted on November 26, 2001 not initialed by the Examiner, specifically referred to as "Article, Calibration to Automation, Road & Bridges, June 1999" was previously cited in related U.S. Pat. App. Ser. No. 09/286,809, now U.S. Pat. No. 6,173,904. As such, a copy is not provided herewith.

Copies of other previously cited documents not received by the Examiner in the Information Disclosure Statement filed on November 26, 2001 along with some newly cited references are provided with the Information Disclosure Statement enclosed herewith.

II. Claim Amendments

Claim 29 is amended herein to provide proper antecedent basis for "at least one material." Claim 36 is amended herein to add the word "of" so the penultimate clause now reads in part: "determining the location of the vehicle."

III. Rejection of Claims under 35 U.S.C. § 102

In the Office action, claims 12-24 and 29-41 are rejected under 35 U.S.C. § 102(e) as being anticipated by McQuinn (U.S. Pat. No. 6,089,743).

The McQuinn patent was filed on December 12, 1996. Through a series of related patents and applications, the subject application claims priority to U.S. Provisional Patent Application No. 60/031,036, filed November 18, 1996, and U.S. Provisional Patent Application No. 60/020,237, filed June 21, 1996, which disclose the subject matter of claims 12-20, 22, 23, 29-33, and 36-41.

More particularly, support for the subject matter of claims 12, 13, 18-20, 29, 36, and 37, which generally recite a material distribution apparatus carried on a vehicle having a spreader system with a control unit on board the vehicle in communication with a remote computer or a global positioning system and the spreader system, can be found at least on pg. 3, ll. 1-7; pg. 4, ll. 19-22; pg. 6, ll. 16-24; pg. 7, ll. 12-30; pg. 8, ll. 1-2; pg. 9, ll. 1-8; and the Abstract of U.S. Prov. App. 60/031,036, and pg. 3, ll. 23-34; pg. 4, ll. 1-7; pg. 5, ll. 8-10; pg. 6, ll. 30-35; and pg. 7, ll. 1-7 of U.S. Prov. App. 60/020,237. Support for elements relating to a second material recited in claims 22, 23, and 36 can be found at least on pg. 6, ll. 3-12 of U.S. Prov. App. 60/020,237, and pg. 3, ll. 3-8 of U.S. Prov. App. 60/031,036. Support for elements relating to quantity of material recited in claims 14, 30, and 38 can be found at least on pg. 10; ll. 1-14; and pg. 11, ll. 11-14 of U.S. Prov. App. 60/031,036, and pg. 8, ll. 28-29; pg. 9, ll. 21-26; and pg. 10, ll. 1-3 of U.S. Prov. App. 60/020,237. Support for elements relating to the width of material distributed recited in claims 15, 31, and 39 can be found at least on pg. 4, ll. 18-23; pg. 5, ll. 9-31; pg. 6, ll. 1-13; pg. 7, ll. 12-30; pg. 8, ll. 1-2; and Figs. 6A-6C and 7A-7C of U.S. Prov. App. 60/031,036, and pg. 5, ll. 5-10; pg. 10, ll. 13-15; and Figs. 6A-6C and 7A-7C of U.S. Prov. App. 60/020,237. Support for elements relating to the direction of distribution of material recited in claims 16, 32, and 40 can be found at least on pg. 11, ll. 20-24; pg. 12, ll. 23-28; and Figs. 6A-6C and 7A-7C of U.S. Prov. App. 60/031,036, and pg. 10, ll. 31-35; pg. 11, ll. 1-3; and Figs. 6A-6C and 7A-7C of U.S. Prov. App. 60/020,237. Support for elements relating to the type of travel surface as recited in claims 17, 33, and 41 can be found at least on pg. 1, ll. 10-11

and ll. 24-27; and pg. 3, ll. 6-8 of U.S. Prov. App. 60/031,036, and pg. 1, ll. 1-13 and ll. 26-28; and pg. 3, ll. 18-22 of U.S. Prov. App. 60/020,237.

As such, it is respectfully submitted that the McQuinn patent is not a proper reference under 35 U.S.C. § 102(e) for claims 12-20, 22, 23, 29-33, and 36-41. Accordingly, it is believed that claims 12-20, 22, 23, 29-33, and 36-41 are patentable over the McQuinn reference. Therefore, for at least these reasons, claims 12-20, 22, 23, 29-33, and 36-41 are in form for allowance and such indication is respectfully requested.

Under 35 U.S.C. § 102, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See MPEP § 2131. There is at least one aspect of the invention defined by claims 21, 24, 34, and 35 not taught or suggested by McQuinn. The McQuinn reference discloses an agricultural products crop input application control system, which includes a delay coordinating system to provide for more accurate dispensing of agricultural products in a field. See McQuinn patent, Abstract; Col. 6, ll. 52. However, McQuinn does not teach or suggest controlling material distribution as a function of "level of service," as recited in claims 21, 24, 34, and 35. In one particular example, "level of service" as recited in claims 21, 24, 34, and 35 is conceptualized to mean a desired travel surface condition, as described in Col. 13, ll. 62-67 of the subject application. Thus, it is respectfully submitted that, for at least the reasons discussed above, the McQuinn patent does not disclose or suggest every element of claims 21, 24, 34, and 35. As such, claims 21, 24, 34, and 35 are patentable under 35 U.S.C. § 102(e) over McQuinn, and are in form for allowance and such indication is respectfully requested.

IV. Conclusion

For at least the various reasons discussed herein, it is believed that claims 12-24 and 29-41 are in form for allowance, and such indication is respectfully requested.

A petition for a three month extension of time to respond to the November 20, 2003 Office action is hereby requested, making this Amendment and Response due on or before Thursday, May 20, 2004. A check for \$655 is enclosed to cover the extension of time fee and the fee for the enclosed Information Disclosure Statement. It is believed no further fees are due


with respect to filing of this Amendment; however, if any application processing fees are required, the Commissioner is hereby authorized to charge deposit account number 04-1415.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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By 

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